

Project 1877 - NOIRA**STATE WATER CONTROL BOARD****Amend and Reissue General VPDES Permit for Coin-Operated Laundry**

Agency Contact: George E. Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032, or email gec Cosby@deq.virginia.gov.

The regulation is exempt from the Administrative Process Act pursuant to Section 2.2-4006 A 9 of the Code of Virginia

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending the following regulations: **9VAC25-810, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry.** The purpose of the proposed action is to amend and reissue the existing general permit that expires on February 8, 2011. The general permit establishes limitations and monitors requirements for point source discharge of treated wastewaters from coin-operated laundries to surface waters. Coin-operated laundry means any self-service facility where the washing of clothes is conducted as designated by Standard Industrial Classification Code 7215. It does not mean facilities that engage in dry cleaning.

Public Comments: Public comments may be submitted until 5 p.m. on May 27, 2009.

Public Hearing Information:

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act (33 USC § 1251 et seq.).

CHAPTER 810**GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES)
PERMIT FOR COIN-OPERATED ~~LAUNDRY~~ LAUNDRIES****9VAC25-810-10. Definitions.**

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and 9VAC25-31 (Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this regulation:

"Coin-operated laundry" means any self-service facility where the washing of clothes is conducted as designated by SIC 7215. It does not mean facilities that engage in dry cleaning.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges; load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations.

9VAC25-810-20. Purpose.

This general permit regulation governs the discharge of wastewater from coin-operated ~~laundry~~ laundries to surface waters. No discharge of pollutants from coin

operated laundries is allowed except when in compliance with the conditions of this permit.

9VAC25-810-30. Delegation of authority.

The director, or an authorized representative, may perform any act of the board provided under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

9VAC25-810-40. Effective date of the permit.

This general permit will become effective on ~~February 8, 2006~~ February 8, 2011. This general permit will expire ~~five years after February 8, 2006~~ on February 7, 2016. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-810-50 ~~and the receipt of this general permit.~~

9VAC25-810-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9VAC25-810-60, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-810-70, and provided that: the department has not notified the applicant that authorization is denied in accordance with subsection B of this section.

~~1. Individual permit.~~ B. The department will notify an applicant of denial of authorization in the event of any of the following:

- ~~1. The owner has not been~~ is required to obtain an individual permit according to 9VAC25-31-170 B 3-;
- ~~2. Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters specifically named in~~ Other board regulations or policies that prohibit such discharges-;
- ~~3. Central sewage facilities are reasonably available;~~
- ~~4. The discharge violates the antidegradation policy in the Water Quality Standards at~~ 9VAC25-260-30; or
- ~~5. The board has established a "total maximum daily load" (TMDL) that has been approved by EPA prior to the term of this permit, and the TMDL~~ An applicable TMDL (Board adopted, EPA approved or EPA imposed) contains a WLA for the facility, unless this general permit specifically addresses the TMDL pollutant of concern and meets the TMDL WLA.

~~B- C.~~ C. Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES permit regulation. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9VAC25-810-60. Registration statement.

The owner shall file a complete VPDES general permit registration statement for a coin-operated laundry. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing coin-operated laundry covered by an individual

VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing coin-operated laundry not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

1. Facility name and mailing address, owner name and mailing address, and telephone number and email (if available);
2. Facility ~~location~~ street address (if different from mailing address);
3. Facility operator name, address, and telephone number and email (if available) if different than owner;
4. Does the facility discharge to surface waters? Name of receiving stream if "yes" and if "no", describe the discharge;
5. Does the facility have a current VPDES Permit? Permit number if "yes";
6. Are there central sewage facilities available to serve this facility?;
- ~~6.~~ 7. A USGS topographic map or computer generated map showing the facility, discharge location and receiving stream;
- ~~7. Provide a brief description of the type of coin-operated laundry;~~
8. Number of laundry machines and an estimate of the average flow rate (million gallons per day);
9. Facility line (water balance) drawing;
10. ~~Treatment information~~ Description of wastewater treatment;
11. Information on use of chemicals at the facility;
12. The following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

The registration statement shall be signed in accordance with 9VAC25-31-110.

9VAC25-810-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-31.

General Permit No.: VAG72

Effective Date:

Expiration Date:

GENERAL PERMIT FOR COIN-OPERATED ~~LAUNDRY~~ LAUNDRIES
 AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE
 ELIMINATION SYSTEM AND
 THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of coin-operated laundries are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable to All VPDES Permits, as set forth herein.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a coin-operated laundry ~~taken at~~ from outfall(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency***	Sample Type
Flow (mgd)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0*	9.0*	1/Quarter	Grab
TSS (mg/l)	NA	60	1/Quarter	Grab
BOD ₅ (mg/l)	NA	60*	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0*	NA	1/Quarter	Grab
Temperature °C	NA	32**	1/6 Months	Immersion Stabilization
Total Residual Chlorine (ug/l) (mg/l)	NA	44 <u>.011</u> *	1/Quarter	Grab
E. Coli	NA	235 n/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

*Where the Water Quality Standards (9VAC25-260 et seq.) establish alternate

standards for pH, BOD5, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.

******The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C

*******Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the tenth day of April, July, October, and January. Reports of once per six months shall be submitted no later than the tenth day of January and the tenth day of July for samples collected by December 31 and June 30 of each year.

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. Special conditions.

1. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter;

(2) Two hundred micrograms per liter for acrolein and acrylonitrile; 500 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter;

(2) One milligram per liter for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

2. Operation and maintenance manual requirement. The permittee shall develop an Operations and Maintenance (O & M) Manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure

compliance with the requirements of this permit. The manual shall be submitted for staff approval within 90 days of ~~February 8, 2006~~ February 8, 2011, or completion of construction. If an approved O & M Manual is already on file with DEQ, the permittee shall review the existing O & M Manual and notify the DEQ regional office in writing within 90 days of the date of coverage under the general permit whether it is still accurate and complete. If the O & M Manual is no longer accurate and complete, a revised O & M Manual shall be submitted for approval to the DEQ regional office within 90 days of the date of coverage under the general permit or with the above required notification. The permittee will maintain an accurate, approved operation and maintenance manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of the permit. The permittee shall operate the treatment works in accordance with the approved O & M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;
 - b. Discussion of best management practices, if applicable;
 - c. ~~Treatment system design, treatment~~ system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and recordkeeping; and
 - d. A sludge/solids disposal plan.
3. ~~The permit prohibits adding~~ permittee shall not add chemicals to the water or waste that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the ~~Department of Environmental Quality~~ department.
4. ~~There shall be no discharge of floating solids or visible foam in other than trace amounts.~~
- ~~5.4. Compliance Reporting under Part I A (use for permit with water quality-based limits for toxics or conventional pollutants in Part I A. Modify this example as needed for effluent parameters in the permit).~~

- a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
BOD ₅	5 mg/l
TSS	1.0 mg/l
Chlorine	0.10 mg/l

- b. ~~Reporting. Daily Maximum Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A and B shall be determined as follows: All concentration data below the QL listed in subdivision a shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated~~

~~concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.~~

~~e.~~ Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision a. Otherwise the numerical value shall be reported.

~~d. c.~~ Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 5 always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

~~6.5.~~ If the discharge is into a municipal separate storm sewer the permittee is required to notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit and provide the following information: the name of the facility; a contact person and phone number; and the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number.

~~7.6.~~ No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.

7. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

Part II

Conditions Applicable To All VPDES Permits.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the US Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the

registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the tenth day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the US Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after

said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under this subsection if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under subdivisions 1 or 2 of this subsection, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in subdivision 2 of this subsection.

NOTE: The immediate (within 24-hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major

capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in subdivision 1 of this subsection;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 1 or 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may

constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least ten days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.